

### **REMARKS**

Applicants request reconsideration and allowance in view of the following remarks.  
Claims 1-28, 55-57, and 64-75 are pending, with claims 1, 15, 55, and 75 being independent.

### **§ 103 Rejection**

Claims 1-28, 55-57, and 64-75 were rejected as being unpatentable over Blumenau (U.S. Patent No. 6,108,637) in view of Guyot (U.S. Patent No. 6,119,098) and Cezar (U.S. Patent No. 6,128,651). Applicants respectfully request reconsideration and withdrawal of this rejection because each of Blumenau, Guyot, Cezar, and the proposed combination of the references, fails to describe or suggest the subject matter of independent claims 1, 15, 55, and 75 as discussed below.

#### **Independent Claims 1, 15, and 55**

Blumenau, Guyot, and Cezar, either singly or in combination, fail to describe or suggest at least two features of independent claim 1.

First, these references fail to describe or suggest varying an amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system based on an amount of time determined based on the viewer's monitored interactions with the viewer's associated computer system.

Specifically, the final Office Action indicates that "the combination of Blumenau and Guyot does not expressly teach the process of varying an amount of display time." See final Office Action at page 4. The Office Action relies on Cezar for this feature.

However, although Cezar describes using timers to control an amount of display time of advertisements, Cezar does not describe varying the amount of time associated with the timers, much less varying the amount of time associated with the timers based on a viewer's monitored interactions with the viewer's associated computer system. Rather, the Cezar system enables an advertiser to assign a timer to an advertisement and the assigned timer is used to control an amount of time to display the advertisement to a viewer without regard for a viewer's interactions with a computer system. Therefore, Applicants submit that none of the cited references describe or suggest an amount of display time as being an attribute of an advertisement that is varied based on a viewer's monitored interactions with the viewer's

associated computer system. Accordingly, Applicants submit that each of Blumenau, Guyot, and Cezar, either singly or in combination, fail to describe or suggest varying an amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system based on an amount of time determined based on the viewer's monitored interactions with the viewer's associated computer system, as recited in independent claim 1.

Second, these references fail to describe or suggest that a varied amount of display time for which a later displayed advertisement is to be displayed on a viewer's associated computer system is different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated computer system, as recited by independent claim 1.

Specifically, as indicated in the Office Action, "the combination of Blumenau and Guyot does not expressly teach the process of varying an amount of display time." See final Office Action at page 4. The Office Action relies on Cezar for this feature.

However, at most, Cezar describes controlling the display time of an advertisement for all viewers of the advertisement. In other words, Cezar, at most, describes the display time being the same for all viewers.

Specifically, Cezar is directed to a system configured to provide the display of an advertisement for a guaranteed, minimum timed interval. See Cezar at Abstract. To that end, each advertisement is associated with an individual timer that is used to control the display time of that advertisement to all users. See Cezar at col. 2, lines 34-53. As such, the associated advertisement is displayed on all of the viewers' computer systems for the same predefined time. Therefore, none of the cited references describe or suggest that an amount of display time for the same advertisement differs among viewers of the advertisement. Accordingly, Blumenau, Guyot, and Cezar, either singly or in combination, fail to describe or suggest that the varied amount of display time is different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated computer system, as recited by independent claim 1.

Furthermore, with regard to the proposed combination of Blumenau, Guyot, and Cezar, Applicants note that "rejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to

support the legal conclusion of obviousness.” See *In re Kahn*, 441 F. 3d 977, 988 (Fed. Cir. 2006). “A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of argument reliant upon ex post reasoning.” *KSR Int’l v. Teleflex Inc.*, 82 USPQ 2d 1385, at 1397 (2007). In the present instance, the statements provided by in the Office Action to support the proposed combination are exactly the type of “conclusory statement” that, according to the Federal Circuit, are insufficient to support an obviousness determination. Moreover, a combination cannot change the principle of operation of the primary reference or render the reference inoperable for its intended purpose. See MPEP § 2143.01. Applicants submit that the combinations proposed in the final Office Action would clearly change the principle of operation in each case, and note the lack of articulated reasoning in the Office Action that would suggest otherwise. For these and other reasons, any and all proposed combinations of references suggested in the Office Action are believed to be improper. A *prima facie* case of obviousness has therefore not been shown.

For at least the reasons discussed above, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claim 1, along with claims 2-14, 64-66, 71 and 72 that depend therefrom.

Independent claim 15 recites a computer program for presenting advertising to viewers in a computer network environment in a manner corresponding to that of independent claim 1. Accordingly, for at least the reasons described above with respect to independent claim 1, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claim 15, along with claims 16-28, 67-69, 73 and 74 that depend therefrom.

Further, independent claim 55 recites a method of optimizing a click-through rate of a user viewing content in a computer network environment that includes, among other things, varying an amount of display time for which an advertisement is to be displayed based on a user's activity with respect to the user's computer, the varied amount of display time being different than an amount of display time for which the later displayed advertisement is to be displayed on another viewer's associated computer system. Accordingly, for at least the reasons described above with respect to independent claim 1, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claim 55, along with claims 56, 57, and 70 that depend therefrom.

### Independent Claim 75

With respect to claim 75, although the final Office Action lists claim 75 as being rejected over Blumenau in view of Guyot and Cezar, the final Office Action does not substantively address many features of claim 75. Rather, the final Office Action merely indicates that claim 75 does “not teach or further define over the limitations in claims 1-14 and 64-66” and is “rejected for the same reasons set forth above.” See final Office Action at page 10. However, the features of claim 75 differ from those of claims 1-14 and 64-66 and, thus, have not been addressed in the final Office Action. Applicants submit that the failure to address the features of claim 75 is improper and respectfully request that Examiner Tiv address the features of claim 75 in a new Office Action or indicate that claim 75 is allowed.

For example, independent claim 75 recites, among other things, determining an amount of time to display advertisements to a particular user based on accessed data related to the particular user's interactions with a computer system used by the particular user, adjusting a general timing attribute that indicates an amount of time to display an advertisement to users based on the determined amount of time to display advertisements to the particular user, and associating the adjusted general timing attribute with the advertisement to be displayed to the particular user as a user-specific timing attribute that indicates the amount of time to display the advertisement to the particular user. Applicants submit that at least these features have not been addressed in the final Office Action and are not described or suggested by the Blumenau, Guyot, and Cezar references.

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claim 75.

### Dependent Claims

The dependent claims are deemed to define additional aspects of the disclosure not seen in the cited references.

#### Dependent Claims 5 and 19

For example, dependent claim 5 recites, among other things, adjusting an idle delay configured to cause a delay from the time a user has gone idle before a first advertisement is replaced with another advertisement.

The Office Action relies on Guyot for this feature, referring to col. 5, lines 6-17 and col. 7, lines 49-56. The identified portions of Guyot, however, merely describe switching to a screen saver mode when the system has been idle for a predetermined length of time. Applicants submit that switching to a screen saver mode based on passage of a predetermined length of time in which a user has been idle does not describe or suggest adjusting an idle delay configured to cause a delay from the time a user has gone idle before a first advertisement is replaced with another advertisement. Accordingly, the identified portions (or any other portions) of Guyot fail to describe or suggest adjusting an idle delay configured to cause a delay from the time a user has gone idle before a first advertisement is replaced with another advertisement, as recited in claim 5. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 5 for at least these additional reasons.

Claim 19 recites a computer program for presenting advertising to viewers in a computer network environment in a manner corresponding to that of claim 5. Accordingly, for at least the additional reasons described above with respect to claim 5, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 19.

#### Dependent Claims 6 and 20

In another example, dependent claim 6 recites, among other things, adjusting an active delay configured to cause a delay from the time a user goes active before displaying another advertisement.

The Office Action relies on Guyot for this feature, referring to col. 5, lines 6-17 and col. 7, lines 49-56. The identified portions of Guyot, however, merely describe switching to a screen saver mode when the system has been idle for a predetermined length of time. Accordingly, the identified portions of Guyot relate to a situation in which a user has been idle, rather than a situation in which a user becomes active. Thus, Applicants submit that switching to a screen saver mode based on passage of a predetermined length of time in which a user has been idle does not describe or suggest adjusting an active delay configured to cause a delay from the time a user goes active before displaying another advertisement. As such, the identified portions (or any other portions) of Guyot fail to describe or suggest adjusting an active delay configured to cause a delay from the time a user goes active before displaying another advertisement.

Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 6 for at least these additional reasons.

Claim 20 recites a computer program for presenting advertising to viewers in a computer network environment in a manner corresponding to that of claim 6. Accordingly, for at least the additional reasons described above with respect to claim 6, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 20.

Dependent Claims 7 and 21

In yet another example, dependent claim 7 recites, among other things, adjusting an idle (no spin) parameter configured to stop the display of a first advertisement from being replaced with the display of another advertisement after a user goes idle.

The Office Action relies on Guyot for this feature, referring to col. 5, lines 6-17 and col. 7, lines 49-67. The identified portions of Guyot, however, merely describe switching to a screen saver mode when the system has been idle for a predetermined length of time. Applicants submit that switching to a screen saver mode based on passage of a predetermined length of time in which a user has been idle does not describe or suggest adjusting an idle (no spin) parameter configured to stop the display of a first advertisement from being replaced with the display of another advertisement after a user goes idle. Rather, the Guyot system merely switches to a screen saver mode after a predetermined length of idle time without stopping the display of an advertisement from being replaced after the user goes idle. Therefore, the identified portions (or any other portions) of Guyot fail to describe or suggest adjusting an idle (no spin) parameter configured to stop the display of a first advertisement from being replaced with the display of another advertisement after a user goes idle. Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 7 for at least these additional reasons.

Claim 21 recites a computer program for presenting advertising to viewers in a computer network environment in a manner corresponding to that of claim 7. Accordingly, for at least the additional reasons described above with respect to claim 7, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 21.

### Dependent Claim 56

Dependent claim 56 recites, among other things, varying tuning parameters downloaded to a user's computer, and utilizing a correlation technique to determine a correlation between the tuning parameters downloaded to the user's computer and a click-through rate of the user.

The Office Action relies on Blumenau for this feature, referring to col. 14, lines 7-19, col. 16, lines 13-38, col. 17, lines 24-35, and col. 18, lines 38-56. The identified portions of Blumenau, however, do not describe varying tuning parameters downloaded to a user's computer, much less determining a correlation between the varied tuning parameters downloaded to the user's computer and a click-through rate of the user. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 56 for at least these additional reasons.

### Conclusion

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply.

In addition, in the Office Action, the Examiner has stated his construction or interpretation of some terms in the pending claims. Applicants neither agree nor disagree with the Examiner's construction or interpretation, but rather note that the proper boundaries of the claims are defined by the words of the claims themselves.

Applicants submit that all claims are in condition for allowance.

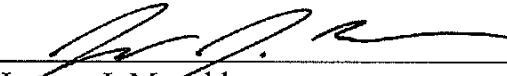
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Page : 17 of 17

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The Director is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 06-1050. The Director also is hereby authorized to apply any additional fees or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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